

Council/Agency Meeting Held: _____		City Clerk's Signature _____	
Deferred/Continued to: _____			
<input type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied			
Council Meeting Date: 3/21/2005	Department ID Number: ED 05-05		

## CITY OF HUNTINGTON BEACH REQUEST FOR CITY COUNCIL ACTION

**SUBMITTED TO:** HONORABLE MAYOR CITY COUNCIL MEMBERS  
**SUBMITTED BY:** *Penelope Culbreth Graft*  
 PENELOPE CULBRETH-GRAFT, CITY ADMINISTRATOR  
**PREPARED BY:** DAVID C. BIGGS, DIRECTOR OF ECONOMIC DEVELOPMENT  
 JIM B. ENGLE, DIRECTOR OF COMMUNITY SERVICES  
**SUBJECT:** APPROVE LICENSE RENEWAL AGREEMENTS WITH SOUTHERN CALIFORNIA EDISON FOR AREVALOS PARK AND EDISON PARK

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)

**Statement of Issue:** Two five-year renewal of License Agreements with Southern California Edison (SCE) for parks and recreation purposes are submitted for approval. The first subject property, known as Arevalos Park, is approximately 2.6 acres of SCE property located between Pegasus School and the Santa Ana River. The proposed Arevalos Park License Agreement will extend the City's use of the property for five years at a cost of \$520 per year. The second subject property, which has been developed as a part of Edison Community Park, is 5.64 acres of SCE property adjacent to Edison High School and Hamilton Avenue. The proposed Edison Park License Agreement will extend the City's use of the property for five years at a cost of \$1,128 per year. Additionally, because SCE requires that these License Agreements include a prohibition against dogs, while the Municipal Code categorically allows leashed dogs in all City parks, the Council is asked to direct staff to prepare an amendment to the Municipal Code that would allow dogs to be prohibited within SCE parkland areas.

**Funding Source:** Total of \$1,648 annual payment (for five years) from the Park Acquisition and Development Fund (\$520 for Arevalos Park and \$1,128 for Edison Park).

**Recommended Action:**

1. Direct staff to prepare an amendment to the Municipal Code prohibiting dogs in SCE parkland areas.
2. Approve the proposed License Agreement with SCE for Arevalos Park, and authorize the Mayor and City Clerk to execute all documents necessary to effectuate this transaction.
3. Approve the proposed License Agreement with SCE for Edison Park, and authorize the Mayor and City Clerk to execute all documents necessary to effectuate this transaction.

*E-16*

## REQUEST FOR ACTION

MEETING DATE: 3/21/2005

DEPARTMENT ID NUMBER: ED 05-05

### Alternative Action(s):

1. Discontinue the use of SCE property for Arevalos Park and/or Edison Park.

**Analysis:** Since 1971, the City has leased SCE property adjacent to the Pegasus School (formerly Arevalos Elementary School) for public parkland. This property, which is located between the back side of the school and the Santa Ana River, is approximately 2.6 acres and contains a playground set and open space for passive use (see Arevalos Park site map, Attachment 1). The City currently rents the property for \$520 per year under a license agreement that expires on March 31, 2005. The proposed License Agreement extends the parkland use of the property at the same rate for five additional years (see Arevalos Park License Agreement, Attachment 2).

Since 1969, the City has leased SCE property adjacent to Edison High School for public parkland. This property, which is located between the school and Hamilton Avenue, is approximately 5.64 acres. The property is available to the public as open space for passive use (see Edison Park site map, Attachment 3). The City currently rents the property for \$1,128 per year under a license agreement that expired on December 31, 2004. The proposed License Agreement retroactively extends the parkland use of the property at the same rate for five additional years (see Edison Park License Agreement, Attachment 4).

Both License Agreements were prepared by SCE and reviewed by the City Attorney's Office. As noted in Attachment 5, the City Attorney identified a conflict between the agreements and the City's Municipal Code: SCE prohibits dogs on its property, however, the City's Municipal Code (Section 13.48.070) says that leashed dogs shall be permitted in all parks (see Municipal Code Section 13.48, Attachment 6). This matter was discussed at the Council's Economic Development Committee (EDC) meeting on February 14, 2005, where staff was directed to bring the matter to the full Council. Because SCE is not currently prepared to allow dogs on its property, the EDC recommended that the Municipal Code be amended as necessary to ensure the continued availability of the SCE property as public parkland.

**Environmental Status:** N/A

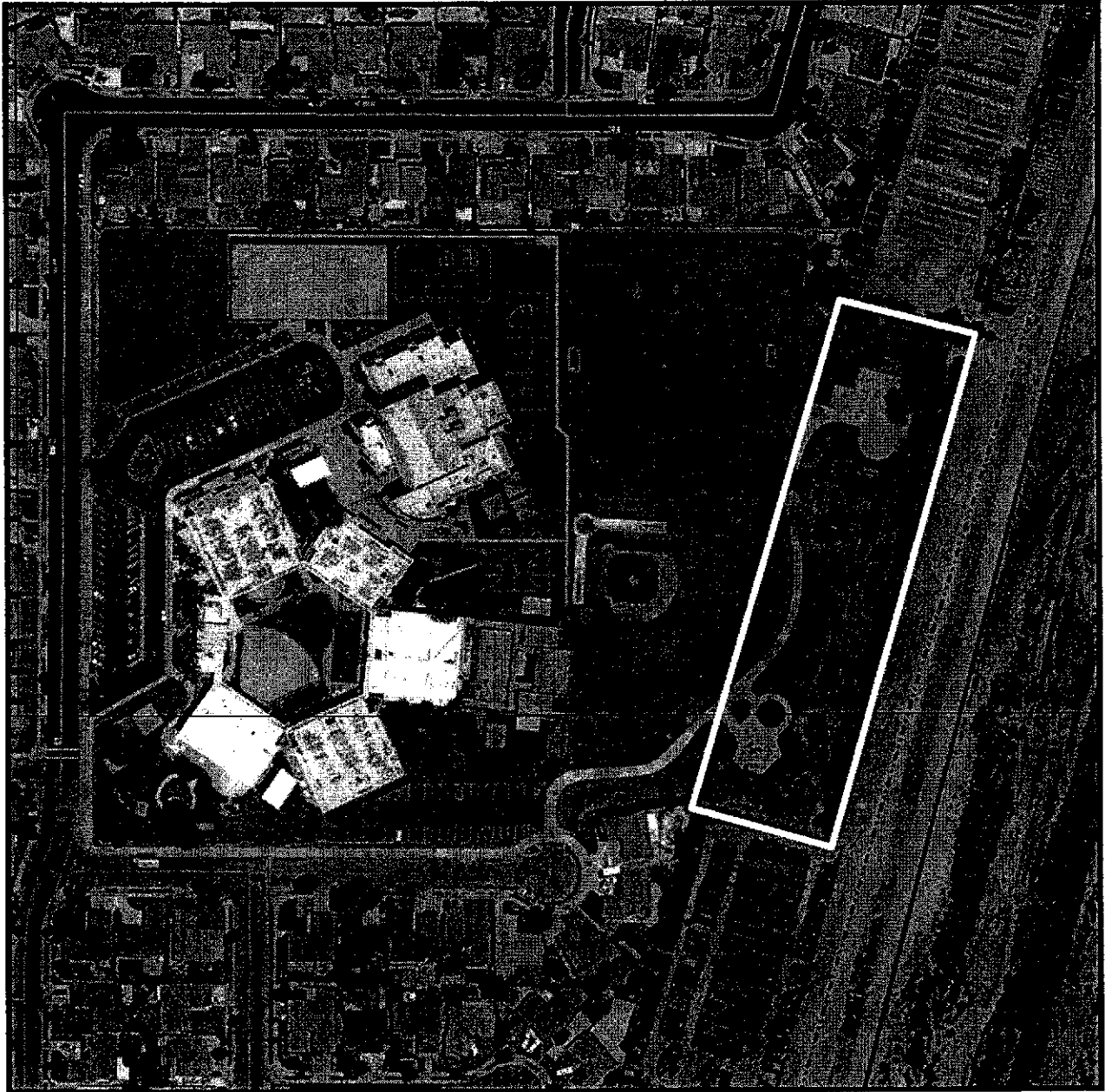
### Attachment(s):

City Clerk's Page Number	No.	Description
3	1.	Arevalos Park Site Map
6	2.	Proposed License Agreement with Southern California Edison for Arevalos Park
20	3.	Edison Park Site Map
23	4.	Proposed License Agreement with Southern California Edison for Edison Park
36	5.	City Attorney Memo Discussing Dog Restriction Issue
38	6.	Municipal Code Section 13.48

**Arevalos Park Site Map**

**ATTACHMENT #1**

Arevalos Park



E-16.4



E-16.5

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**Proposed License Agreement with Southern California  
Edison for Arevalos Park**

# **ATTACHMENT #2**

*E-16.6*

CITY OF HUNTINGTON BEACH

Property No. POHBE858F62

Account No. 2145

L I C E N S E   A G R E E M E N T

I N D E X

1. USE
2. TERM
3. CONSIDERATION
4. INSURANCE
5. LICENSOR'S USE OF THE PROPERTY
6. LICENSEE'S IMPROVEMENTS
7. LICENSEE'S PERSONAL PROPERTY
8. HEIGHT LIMITATIONS
9. ACCESS AND CLEARANCES
10. PARKING
11. FLAMMABLES, WASTE AND NUISANCES
12. PESTICIDES AND HERBICIDES
13. HAZARDOUS WASTE
14. SIGNS
15. FENCING
16. PARKWAYS AND LANDSCAPING
17. IRRIGATION EQUIPMENT
18. UNDERGROUND TANKS
19. UNDERGROUND FACILITIES
20. UTILITIES
21. TAXES, ASSESSMENTS AND LIENS
22. EXPENSE
23. ASSIGNMENTS
24. COMPLIANCE WITH LAW
25. GOVERNING LAW
26. INDEMNIFICATION
27. TERMINATION
28. EVENTS OF DEFAULT
29. REMEDIES
30. NON-POSSESSORY INTEREST
31. WAIVER
32. AUTHORITY
33. ATTORNEY FEES
34. ELECTRIC AND MAGNETIC FIELDS
35. NOTICES
36. RECORDING
37. COMPLETE AGREEMENT

ADDENDUM

PARK USE

**Licensee Copy**

E-16.7



LICENSE AGREEMENT

THIS AGREEMENT, made as of the 21st day of December, 2004, between SOUTHERN CALIFORNIA EDISON COMPANY (SCE), a corporation organized under the laws of the State of California, hereinafter called "Licensor", and CITY OF HUNTINGTON BEACH hereinafter called "Licensee";

WITNESSETH: That Licensor, for and in consideration of the faithful performance by Licensee of the terms, covenants and agreements hereinafter set forth to be kept and performed by Licensee, does hereby give to Licensee the license to use that certain real property described below and depicted on Exhibit "A" attached hereto and made a part hereof of the ("Property") solely for the purpose hereinafter specified, upon and subject to the terms, reservations, covenants and conditions hereinafter set forth.

The subject Property is located in the City of Huntington Beach, County of Orange, State of California further described as follows:

That portion of Section 5, Township 6 South, Range 10, West, San Bernardino Meridian, as per map recorded in Book 51, page 14 of Miscellaneous Maps in the office of the County Recorder of said County, more particularly described as follows:

Beginning at the Northeasterly corner of Lot 71 of Tract No. 4707 as shown on a map of said Tract 4707 recorded in Book 209, page 33 through 35, inclusive, of Miscellaneous Maps Records in the office of the County Recorder of said County, said Northeasterly corner also being located on the Westerly line of the Southern California Edison Company Right of Way as described and recorded in Book 4065, page 367 of Official Records in the office of the County Recorder of said County; thence North 14° 31' 15" East 702.20 feet, more or less, along said Westerly line of the Southern California Edison Company Right of Way to the Southerly corner of Lot 38 of Tract No. 4884 recorded in Book 189, pages 8 through 10, inclusive, of Miscellaneous Maps Records in the office of the County Recorder of said County; thence South 75° 28' 45" East 174.00 feet to a point on the Easterly line of said Southern California Edison Company Right of Way; thence South 140° 31' 15" West, 702.20 feet, more or less, along said Easterly line of said Southern California Edison Company Right of Way; thence North 75° 27' 45" West, 174.00 feet to the Point of Beginning.

The hereinabove described licensed property is shown on the print attached hereto, marked Exhibit "A", said print being for information purposes only.

SUBJECT TO:

Covenants, conditions, restrictions, reservations, exceptions, rights and easements, whether or not of record including but not limited to, the following:

1. Use: Licensee will use the Property for parks and/or public recreation purposes only. Licensor makes no representation, covenant, warranty or promise that the Property is fit for any particular use, including the use for which this Agreement is made and Licensee is not relying on any such representation, covenant, warranty or promise. Licensee's failure to make such use of the Property as determined by the Licensor in its sole discretion, will be grounds for immediate termination of this Agreement in accordance with Article 28.

2. Term: Unless otherwise terminated as provided herein, this Agreement will be in effect for a term of five (5) years commencing on the first day of April, 2005, and ending on the last day of March, 2010. Licensee acknowledges that this Agreement does not entitle Licensee to any subsequent

agreement, for any reason whatsoever, regardless of the use Licensee makes of the Property, the improvements Licensee places on or makes to the Property, or for any other reason.

3. Consideration: Licensee will pay to Licensor the sum of Five Hundred Twenty and 00/100 Dollars (\$520.00) upon the execution and delivery of this Agreement for the first year;

Term	Year Due	Yearly Amount	Payment Due First Day Of
First Year	2005	520.00	April
Second Year	2006	520.00	April
Third Year	2007	520.00	April
Fourth Year	2008	520.00	April
Fifth Year	2009	520.00	April

All payments subsequent to the initial payment will be paid to the Southern California Edison Company, Post Office Box 800, Rosemead, California, 91770, Attention: Corporate Accounting Department - Accounts Receivable.

All accounts not paid within 30 days of the agreed upon due date will be charged a late fee on all amounts outstanding.

4. Liability Insurance: Licensee will insure its liabilities which may result from its activities hereunder by the purchase of a liability insurance policy with a Combined Single Limit of not less than Two Million and 00/100 Dollars (\$2,000,000.00) and will include Licensor as an additional insured or Licensee will provide Licensor with evidence of self insurance upon request.

5. Licensor's Use of the Property: Licensee agrees that Licensor, its successors and assigns, have the right to enter upon the Property, at any time, for any purpose, and the right to conduct any activity on the Property. Exercise of these rights by Licensor, its successors and assigns, will not result in compensation to Licensee for any damages whatsoever to personal property and/or crops located on the Property.

6. Licensee's Improvements: Licensee must submit, for Licensor's prior written approval, complete improvement plans, including grading plans, identifying all existing and proposed improvements, a minimum of sixty (60) days prior to making any use of the Property. Licensee must submit, for Licensor's prior written approval plans for any modifications to such improvements. Written approval may be modified and/or rescinded by Licensor for any reason whatsoever. At any time, Licensee may be required to modify and/or remove any or all such previously approved improvements at Licensee's risk and expense and without any compensation from Licensor. Licensor is not required, at any time, to make any improvements, alterations, changes or additions of any nature whatsoever to the Property. Licensee expressly acknowledges that any expenditures or improvements will in no way alter Licensor's right to terminate in accordance with Article 27.

7. Licensee's Personal Property: All approved equipment and other property brought, placed or erected on the Property by Licensee shall be and remain the Property of Licensee, except as otherwise set forth herein. If Licensee is not in default hereunder, Licensee shall have the right to remove the same from the Property at any time prior to the expiration or earlier termination of this Agreement; provided, however, that Licensee shall promptly restore any damage to the Property caused by the removal. If Licensee is in default, however, such equipment or other property shall not be removed by Licensee without Licensor's written consent until Licensee has cured such default, and Licensor shall have a lien thereon to the extent thereof.

8. Height Limitations: Any equipment used by Licensee or its agents, employees or contractors, on and/or adjacent to the Property, will be used and operated so as to maintain a minimum clearance of twenty-five (25) feet from all overhead electrical conductors.

All trees and plants on the Property will be maintained by Licensee at a maximum height of fifteen (15) feet. If requested by Licensor, Licensee will remove any tree and/or other planting.

9. Access and Clearances: Licensee will provide Licensor with adequate access to all of Licensor's facilities on the Property and at no time will there be any interference with the free movement of Licensor's equipment and materials over the Property. Licensor may require Licensee to provide and maintain access roads within the Property, at a minimum usable width of sixteen (16) feet, together with commercial driveway aprons and curb depressions capable of supporting a gross load of forty (40) tons on a three-axle vehicle. The minimum width of all roads shall be increased on curves by a distance equal to 400/inside radius of curvature. All curves shall have a radius of not less than 50 feet measured at the inside edge of the usable road surface. Unless otherwise specified in writing by Licensor, Licensee will make no use of the area directly underneath Licensor's towers and will maintain the following minimum clearances at all times:

- a. A 50-foot-radius around suspension tower legs and 100-foot radius around dead-end tower legs.
- b. A 10-foot-radius around all steel and wood poles.

NOTE: Additional clearance may be required for structures. Plant material in 1 gallon containers (maximum size) may be permitted outside the 25-foot radius around tower legs.

10. Parking: Licensee will not park, store, repair or refuel any motor vehicles or allow parking, storage, repairing or refueling of any motor vehicles on the Property unless specifically approved in writing by Licensor.

11. Flammables, Waste and Nuisances: Licensee will not, nor allow others to, place or store any flammable or waste materials on the Property or commit any waste or damage to the Property or allow any to be done. Licensee will keep the Property clean, free from weeds, rubbish and debris, and in a condition satisfactory to Licensor. Licensee will be responsible for the control of and will be liable for any damage or disturbance, caused by dust, odor, flammable or waste materials, noise or other nuisance disturbances. Licensee will not permit dogs on the Property.

12. Pesticides and Herbicides: Any pesticide or herbicide applications and disposals will be made in accordance with all federal, state, county and local laws. All horticulture Licensees are required to provide a copy of the annual License for Pest Exclusion/Nursery Program from the State of California, Department of Food and Agriculture. Licensee will dispose of all pesticides, herbicides and any other toxic substances declared to be either a health or environmental hazard as well as all materials contaminated by such substances, including but not limited to, containers, clothing and equipment in the manner prescribed by law.

13. Hazardous Waste: Licensee will not engage in, or permit any other party to engage in, any activity on the Property that violates federal, state or local laws, rules or regulations pertaining to hazardous, toxic or infectious materials and/or waste. Licensee will indemnify and hold Licensor, its directors, officers, agents and employees, and its successors and assigns, harmless from any and all claims, loss, damage, actions, causes of action, expenses and/or liability arising from leaks of, spills of, and/or contamination by or from hazardous materials as defined by applicable laws or regulations, which may occur during and after the Agreement term, and are attributable to the actions of, or failure to act by, Licensee or any person claiming under Licensee.

14. Signs: Licensee must obtain written approval from Licensor prior to the construction or placement of any sign, signboard or other form of outdoor advertising.

15. Fencing: Licensee may install fencing on the Property with prior written approval from Licenser. Such fencing will include double drive gates, a minimum of sixteen (16) feet in width, designed to accommodate Licenser's locks, in locations specified by Licenser. Licensee will ground and maintain all fencing.

16. Parkways and Landscaping: Licensee will keep parkway and sidewalk areas adjacent to the Property free of weeds and trash. Licensee will maintain parkways and provide landscaping that is compatible with adjoining properties and that is satisfactory to Licenser.

17. Irrigation Equipment: Any irrigation equipment located on the Property prior to the commencement of this Agreement, including but not limited to pipelines, well pumping equipment and other structures, is the property of Licenser and will remain on and be surrendered with the Property upon termination of this Agreement. Licensee will maintain, operate, repair and replace, if necessary, all irrigation equipment at its own expense.

18. Underground Tanks: Licensee will not install underground or above-ground storage tanks, as defined by any and all applicable laws or regulations, without Licenser's prior written approval.

19. Underground Facilities: Any underground facilities installed or maintained by Licensee on the Property must have a minimum cover of three feet from the top of the facility and be capable of withstanding a gross load of forty (40) tons on a three-axle vehicle. Licensee will compact any earth to a compaction of ninety percent (90%). Licensee will relocate its facilities at its own expense so as not to interfere with Licenser's proposed facilities.

20. Utilities: Licensee will pay all charges and assessments for, or in connection with, water, electric current or other utilities which may be furnished to or used on the Property.

21. Taxes, Assessments and Liens: Licensee will pay all taxes and assessments which may be levied upon any crops, personal property, and improvements, including but not limited to, buildings, structures, and fixtures on the Property. Licensee will keep the Property free from all liens, including but not limited to, mechanics liens and encumbrances by reason of use or occupancy by Licensee, or any person claiming under Licensee. If Licensee fails to pay the above-mentioned taxes, assessments or liens when due, Licenser will have the right to pay the same and charge the amount to the Licensee. All accounts not paid within 30 days of the agreed upon due date will be charged a "late fee" on all amounts outstanding up to the maximum rate allowed by law.

22. Expense: Licensee will perform and pay all obligations of Licensee under this Agreement. All matters or things herein required on the part of Licensee will be performed and paid for at the sole cost and expense of Licensee, without obligation on the part of Licenser to make payment or incur cost or expense for any such matters or things.

23. Assignments: This Agreement is personal to Licensee, and Licensee will not assign, transfer or sell this Agreement or any privilege hereunder in whole or in part, and any attempt to do so will be void and confer no right on any third party.

24. Compliance with Law: Licensee will comply with all applicable federal, state, county and local laws, all covenants, conditions and restrictions of record and all applicable ordinances, zoning restrictions, rules, regulations, orders and any requirements of any duly constituted public authorities now or hereafter in any manner affecting the Property or the streets and ways adjacent thereto. Licensee will obtain all permits and other governmental approvals required in connection with Licensee's activities hereunder.

25. Governing Law: The existence, validity, construction, operation and effect of this Agreement and all of its terms and provisions will be determined in accordance with the laws of the State of California.

26. Indemnification - City of Huntington Beach - Park Use: City hereby agrees to protect, defend, indemnify and hold harmless Edison, its officers and employees, against any and all liability, claims, judgment costs and demands, including those resulting from death or injury to persons and damage to Edison's property, arising directly or indirectly out of the use of the Property by the City and the public. This indemnification does not include any liability, claims, judgment, costs and demands which 1) arise out of the negligence or willful misconduct of Edison or 2) which does not arise out of the City's or the public's use of the property as a park.

27. Termination: This Agreement may be canceled and terminated by either Licensor or Licensee, at any time, upon thirty (30) days notice in writing. Licensee will peaceably quit, surrender and, prior to termination date, restore the Property to a condition satisfactory to the Licensor. Termination, cancellation or expiration does not release Licensee from any liability or obligation (indemnity or otherwise) which Licensee may have incurred. Licensee's continued presence after termination shall be deemed a trespass.

28. Events of Default: The occurrence of any of the following shall constitute a material default and breach of this Agreement by Licensee:

- (a) Any failure by Licensee to pay the consideration due in accordance with Article 3, or to make any other payment required to be made by Licensee hereunder when due.
- (b) The abandonment or vacating of the Property by Licensee.
- (c) Any attempted assignment or subletting of this Agreement by Licensee in violation of Article 23.
- (d) The violation by Licensee of any resolution, ordinance, statute, code, regulation or other rule of any governmental agency in connection with Licensee's activities pursuant to this Agreement.
- (e) A failure by Licensee to observe and perform any other provision of this Agreement to be observed or performed by Licensee, where such failure continues for the time period specified in a written notice thereof by Licensor to Licensee.
- (f) Any attempt to exclude Licensor from the licensed premises.
- (g) The making by Licensee of any general assignment for the benefit of creditors; the appointment of a receiver to take possession of substantially all of Licensee's assets located on the Property or of Licensee's privileges hereunder where possession is not restored to Licensee within five (5) days; the attachment, execution or other judicial seizure of substantially all of Licensee's assets located on the Property or of Licensee's privileges hereunder, where such seizure is not discharged within five (5) days.
- (h) Any case, proceeding or other action brought against Licensee seeking any of the relief mentioned in "clause g" of this Article which has not been stayed or dismissed within thirty (30) days after the commencement thereof.

29. Remedies: In the event of any default by Licensee, then in addition to any other remedies available to Licensor at law or in equity, Licensor shall have the immediate option to terminate this Agreement and all rights of Licensee hereunder by giving written notice of termination to Licensee. Upon termination, Licensor will have the right to remove Licensee's personal property

from the Property, including but not limited to, buildings, structures and fixtures. In addition, Licensor may immediately recover from Licensee all amounts due and owing hereunder, plus interest at the maximum rate permitted by law on such amounts until paid, as well as any other amount necessary to compensate Licensor for all the detriment proximately caused by Licensee's failure to perform its obligations under this Agreement.

30. Non-Possessory Interest: Licensor retains full possession of the Property and Licensee will not acquire any interest temporary, permanent, irrevocable, possessory or otherwise by reason of this Agreement, or by the exercise of the permission given herein. Licensee will make no claim to any such interest. Any violation of this provision will immediately void and terminate this Agreement.

31. Waiver: No waiver by Licensor of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by Licensee of the same or any other provision. Licensor's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of Licensor's consent to or approval of any subsequent act by Licensee.

32. Authority: This Agreement is pursuant to the authority of and upon, and is subject to the conditions prescribed by General Order No. 69-C of the Public Utilities Commission of the State of California dated and effective July 10, 1985, which General Order No. 69-C, by this reference, is hereby incorporated herein and made a part hereof.

33. Attorneys' Fees: In the event of any action, suit or proceeding against the other, related to this Agreement, or any of the matters contained herein, the successful party in such action, suit or proceeding shall be entitled to recover from the other party reasonable attorney fees incurred.

34. Electric and Magnetic Fields ("EMF"): There are numerous sources of power frequency electric and magnetic field ("EMF"), including household or building wiring, electrical appliances and electric power transmission and distribution facilities. There have been numerous scientific studies about the potential health effects of EMF. Interest in a potential link between long-term exposures to EMF and certain diseases is based on the combination of this scientific research and public concerns.

While some 30 years of research have not established EMF as a health hazard, some health authorities have identified magnetic field exposures as a possible human carcinogen. Many of the questions about specific diseases have been successfully resolved due to an aggressive international research program. However, potentially important public health questions remain about whether there is a link between EMF exposures in homes or work and some diseases including childhood leukemia and a variety of other adult diseases (e.g. adult cancers and miscarriages). While scientific research is continuing on a wide range of questions relating to exposures at both work and in our communities, a quick resolution of the remaining scientific uncertainties is not expected.

Since Licensee plans to license or otherwise enter SCE's property that is in close proximity to SCE's electric facilities, SCE wants to share with Licensee and those who may enter the property under this agreement, the information available about EMF. Accordingly, SCE has attached to this document, a brochure that explains some basic facts about EMF and that describes SCE's policy on EMF. SCE also encourages you to obtain other information as needed to assist you in understanding the EMF respect to your planned use of this property.

35. Notices: All notices required to be given by either party will be made in writing and deposited in the United States mail, first class, postage prepaid, addressed as follows:

To Licensor: Southern California Edison Company  
Corporate Real Estate Department  
Real Estate Operations Division  
14799 Chestnut Street  
Westminster, CA 92683

To Licensee: City of Huntington Beach  
P.O. Box 190  
Huntington Beach, CA 92648

Business Telephone No. (714) 536-6551

Licensee will immediately notify Licensor of any address change.

36. Recording: Licensee will not record this Agreement.

37. Complete Agreement: Licensor and Licensee acknowledge that the foregoing provisions and any addenda and exhibits attached hereto constitute the entire Agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate as of the day and year herein first above written.

SOUTHERN CALIFORNIA EDISON COMPANY

By Anita Valko / S  
LICENSOR

ANITA VALKO  
Right of Way Agent  
Real Estate Operations  
Corporate Real Estate Department

CITY OF HUNTINGTON BEACH

By \_\_\_\_\_  
LICENSEE

Print Name: \_\_\_\_\_

By \_\_\_\_\_  
CITY OF HUNTINGTON BEACH

By \_\_\_\_\_  
MAYOR LICENSEE

ATTEST:

\_\_\_\_\_  
CITY CLERK

REVIEWED AND APPROVED:

Penelope Cullum  
CITY ADMINISTRATOR

APPROVED AS TO FORM:

Jennifer M. Felt  
CITY ATTORNEY 3/10/05 LHM 2/1/05

INITIATED AND APPROVED:

Jim B. Eady  
DIRECTOR OF COMMUNITY SERVICES

bs

E-16.15



## ADDENDUM

### PARK USE

- A. Licensee must obtain the prior written approval from Licensor for the installation of any facilities, including any subsequent modifications. Licensee will maintain all facilities in a safe condition satisfactory to Licensor.
- B. At any time, Licensor may require the relocation of any portion of the facilities. Licensee will relocate same, at its expense, to a location satisfactory to Licensor within sixty (60) days after receiving notice to relocate from Licensor.
- C. At Licensee's expense, Licensee will post signs at all access points to the Property that read: "No Kite Flying, Model Airplanes or Metallic Balloons Permitted, High Voltage Wires Overhead."
- D. At Licensee's expense, Licensee will post signs at all access points of the Property that read: "No Motorcycles, Motorbikes, Horseback Riding or Hunting Permitted."
- E. Licensee must close the park at any time Licensor deems it necessary for the safety of the general public. If it is necessary to close the park for a period of more than three days, Licensee will notify the general public of the closure by posting at all access points to the property.
- F. At Licensee's expense, Licensee will install removable post-type barriers designed to accommodate Licensor's locks, to prevent unauthorized vehicular use or parking, including but not limited to, motorcycles, off-road vehicles, and "all-terrain" vehicles.
- G. Trespass discouragers shall be installed on Licensor's towers. The discourager installation will be performed by SCE. Licensee shall pay SCE in advance, for all SCE direct and indirect costs associated with the engineering, purchase, and installation of the discouragers. All towers shall be equipped with signs so worded as to warn the public of the danger of climbing the towers. Such signs shall be placed and arranged so that they may be read from the four corners of the structure. Such signs shall be neither less than 8 feet nor more than 20 feet above the ground except where the lowest horizontal member of the tower or structure is more than 20 feet above the ground in which case the sign shall be not more than 30 feet above the ground.
- H. Licensee must design and construct all walkways, underground sprinkler systems, lighting facilities, and drains to be capable of withstanding a gross load of forty (40) tons on a three-axle vehicle.

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Licensee's Initials

NOTE: CLEARANCES OF 25 FEET AROUND ALL TOWERS,  
10 FEET AROUND STEEL POLES, AND 5 FEET  
AROUND ALL WOOD POLES MUST BE  
KEPT CLEAR AT ALL TIMES

C/L YORKTOWN AVE.

NORTH LINE S. 1/2 SEC. 5  
TOWNSHIP 6 S. RANGE 10 W.

TRACT No. 4884  
M.M. 189/8-10

S.E. COR. LOT 38  
TA. No. 4884

AREVALOS SCHOOL

N.E. COR. LOT 71  
TR. 4707

TRACT 4707  
M.M. 209/33-35

THIS PRINT IS FOR INFORMATIONAL PURPOSES ONLY  
AND SHOULD NOT BE MADE A PART OF ANY INSTRUMENT

Prop. #POHBE858F62

EXHIBIT "A"  
ACCT. 2145

J. O.

M. S. 4-2-90

HUNTINGTON BEACH - ELLIS T/L R/W  
MAP SHOWING LAND OF S.C.E. CO. AND  
AREA DESCRIBED IN LICENSE TO THE  
CITY OF HUNTINGTON BEACH  
COUNTY OF ORANGE

E-16.17

Arevalos Park



E-16.18



E-16.19

Edison Park Site Map

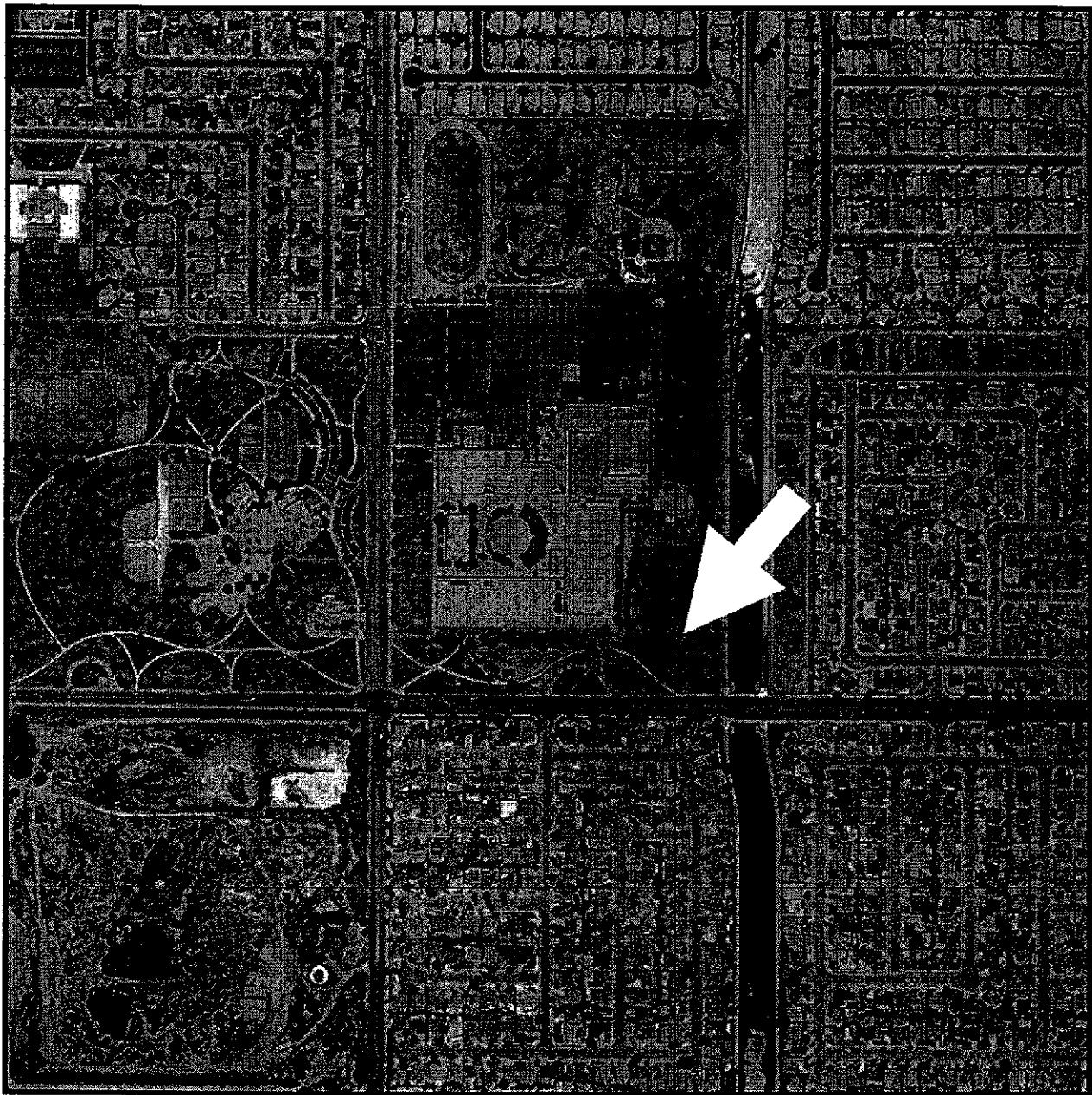
# ATTACHMENT #3

E-16.20

Edison Park



E-16.21



E-16. 22

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**Proposed License Agreement with Southern California  
Edison for Edison Park**

# **ATTACHMENT #4**

CITY OF HUNTINGTON BEACH

Property No. POHBE888C21  
Account No. 2150

L I C E N S E   A G R E E M E N T

I N D E X

1. USE
2. TERM
3. CONSIDERATION
4. INSURANCE
5. LICENSOR'S USE OF THE PROPERTY
6. LICENSEE'S IMPROVEMENTS
7. LICENSEE'S PERSONAL PROPERTY
8. HEIGHT LIMITATIONS
9. ACCESS AND CLEARANCES
10. PARKING
11. FLAMMABLES, WASTE AND NUISANCES
12. PESTICIDES AND HERBICIDES
13. HAZARDOUS WASTE
14. SIGNS
15. FENCING
16. PARKWAYS AND LANDSCAPING
17. IRRIGATION EQUIPMENT
18. UNDERGROUND TANKS
19. UNDERGROUND FACILITIES
20. UTILITIES
21. TAXES, ASSESSMENTS AND LIENS
22. EXPENSE
23. ASSIGNMENTS
24. COMPLIANCE WITH LAW
25. GOVERNING LAW
26. INDEMNIFICATION
27. TERMINATION
28. EVENTS OF DEFAULT
29. REMEDIES
30. NON-POSSESSORY INTEREST
31. WAIVER
32. AUTHORITY
33. ATTORNEY FEES
34. ELECTRIC AND MAGNETIC FIELDS
35. NOTICES
36. RECORDING
37. COMPLETE AGREEMENT

ADDENDUM

PARK USE

**File Copy**

E-16.24

LICENSE AGREEMENT

THIS AGREEMENT, made as of the 15th day of December, 2004, between SOUTHERN CALIFORNIA EDISON COMPANY (SCE), a corporation organized under the laws of the State of California, hereinafter called "Licensor", and CITY OF HUNTINGTON BEACH hereinafter called "Licensee";

WITNESSETH: That Licensor, for and in consideration of the faithful performance by Licensee of the terms, covenants and agreements hereinafter set forth to be kept and performed by Licensee, does hereby give to Licensee the license to use that certain real property described below and depicted on Exhibit "A" attached hereto and made a part hereof the ("Property") solely for the purpose hereinafter specified, upon and subject to the terms, reservations, covenants and conditions hereinafter set forth.

The subject Property is located in the City of Huntington Beach, County of Orange, State of California.

SUBJECT TO:

Covenants, conditions, restrictions, reservations, exceptions, rights and easements, whether or not of record including but not limited to, the following:

A. That certain License for water pipeline purposes as granted to the City of Huntington Beach, by instrument dated April 21, 1964.

B. That certain License for poleline and anchor purposes as granted to the General Telephone Company of California by instrument dated March 1, 1967.

C. Easement for road purposes as granted to the City of Huntington Beach by a deed recorded January 22, 1973, as Instrument No. 17674, in Book 10523, page 901 of Official Records in the office of the County Recorder of Orange County.

1. Use: Licensee will use the Property for parks and/or public recreation purposes only. Licensor makes no representation, covenant, warranty or promise that the Property is fit for any particular use, including the use for which this Agreement is made and Licensee is not relying on any such representation, covenant, warranty or promise. Licensee's failure to make such use of the Property as determined by the Licensor in its sole discretion, will be grounds for immediate termination of this Agreement in accordance with Article 28.

2. Term: Unless otherwise terminated as provided herein, this Agreement will be in effect for a term of five (5) years commencing on the first day of January, 2005, and ending on the last day of December, 2009. Licensee acknowledges that this Agreement does not entitle Licensee to any subsequent agreement, for any reason whatsoever, regardless of the use Licensee makes of the Property, the improvements Licensee places on or makes to the Property, or for any other reason.

3. Consideration: Licensee will pay to Licensor the sum of One Thousand Twenty-Eight and 00/100 Dollars (\$1,128.00) upon the execution and delivery of this Agreement for the first year;

Term	Year Due	Yearly Amount	Payment Due First Day Of
First Year	2005	\$1,128.00	January
Second Year	2006	\$1,128.00	January

Term	Year Due	Yearly Amount	Payment Due First Day Of
Third Year	2007	\$1,128.00	January
Fourth Year	2008	\$1,128.00	January
Fifth Year	2009	\$1,128.00	January

All payments subsequent to the initial payment will be paid to the Southern California Edison Company, Post Office Box 800, Rosemead, California, 91770, Attention: Corporate Accounting Department - Accounts Receivable.

All accounts not paid within 30 days of the agreed upon due date will be charged a late fee on all amounts outstanding.

4. Liability Insurance: During the term of this Agreement Licensee will insure its liabilities which may result from its activities hereunder by the purchase of a liability insurance policy with a Combined Single Limit of not less than Two Million and 00/100 Dollars (\$2,000,000.00) and will include Licensor as an additional insured, or Licensee will provide Licensor a certificate of self insurance.

5. Licensor's Use of the Property: Licensee agrees that Licensor, its successors and assigns, have the right to enter upon the Property, at any time, for any purpose, and the right to conduct any activity on the Property. Exercise of these rights by Licensor, its successors and assigns, will not result in compensation to Licensee for any damages whatsoever to personal property and/or crops located on the Property.

6. Licensee's Improvements: Licensee must submit, for Licensor's prior written approval, complete improvement plans, including grading plans, identifying all existing and proposed improvements, a minimum of sixty (60) days prior to making any use of the Property. Licensee must submit, for Licensor's prior written approval plans for any modifications to such improvements. Written approval may be modified and/or rescinded by Licensor for any reason whatsoever. At any time, Licensee may be required to modify and/or remove any or all such previously approved improvements at Licensee's risk and expense and without any compensation from Licensor. Licensor is not required, at any time, to make any improvements, alterations, changes or additions of any nature whatsoever to the Property. Licensee expressly acknowledges that any expenditures or improvements will in no way alter Licensor's right to terminate in accordance with Article 27.

7. Licensee's Personal Property: All approved equipment and other property brought, placed or erected on the Property by Licensee shall be and remain the Property of Licensee, except as otherwise set forth herein. If Licensee is not in default hereunder, Licensee shall have the right to remove the same from the Property at any time prior to the expiration or earlier termination of this Agreement; provided, however, that Licensee shall promptly restore any damage to the Property caused by the removal. If Licensee is in default, however, such equipment or other property shall not be removed by Licensee without Licensor's written consent until Licensee has cured such default, and Licensor shall have a lien thereon to the extent thereof.

8. Height Limitations: Any equipment used by Licensee or its agents, employees or contractors, on and/or adjacent to the Property, will be used and operated so as to maintain a minimum clearance of twenty-five (25) feet from all overhead electrical conductors.

All trees and plants on the Property will be maintained by Licensee at a maximum height of fifteen (15) feet. If requested by Licensor, Licensee will remove any tree and/or other planting.

9. Access and Clearances: Licensee will provide Licensor with adequate access to all of Licensor's facilities on the Property and at no time will there be any interference with the free movement of Licensor's equipment and materials over the Property. Licensor may require Licensee to provide and maintain access roads within the Property, at a minimum usable width of sixteen (16) feet, together with commercial driveway aprons and curb depressions capable of supporting a gross load of forty (40) tons on a three-axle vehicle. The minimum width of all roads shall be increased on curves by a distance equal to 400/inside radius of curvature. All curves shall have a radius of not less than 50 feet measured at the inside edge of the usable road surface. Unless otherwise specified in writing by Licensor, Licensee will make no use of the area directly underneath Licensor's towers and will maintain the following minimum clearances at all times:

- a. A 50-foot-radius around suspension tower legs and 100-foot radius around dead-end tower legs.
- b. A 10-foot-radius around all steel and wood poles.

NOTE: Additional clearance may be required for structures. Plant material in 1 gallon containers (maximum size) may be permitted outside the 25-foot radius around tower legs.

10. Parking: Licensee will not park, store, repair or refuel any motor vehicles or allow parking, storage, repairing or refueling of any motor vehicles on the Property unless specifically approved in writing by Licensor.

11. Flammables, Waste and Nuisances: Licensee will not, nor allow others to, place or store any flammable or waste materials on the Property or commit any waste or damage to the Property or allow any to be done. Licensee will keep the Property clean, free from weeds, rubbish and debris, and in a condition satisfactory to Licensor. Licensee will be responsible for the control of and will be liable for any damage or disturbance, caused by dust, odor, flammable or waste materials, noise or other nuisance disturbances. Licensee will not permit dogs on the Property.

12. Pesticides and Herbicides: Any pesticide or herbicide applications and disposals will be made in accordance with all federal, state, county and local laws. All horticulture Licensees are required to provide a copy of the annual License for Pest Exclusion/Nursery Program from the State of California, Department of Food and Agriculture. Licensee will dispose of all pesticides, herbicides and any other toxic substances declared to be either a health or environmental hazard as well as all materials contaminated by such substances, including but not limited to, containers, clothing and equipment in the manner prescribed by law.

13. Hazardous Waste: Licensee will not engage in, or permit any other party to engage in, any activity on the Property that violates federal, state or local laws, rules or regulations pertaining to hazardous, toxic or infectious materials and/or waste. Licensee will indemnify and hold Licensor, its directors, officers, agents and employees, and its successors and assigns, harmless from any and all claims, loss, damage, actions, causes of action, expenses and/or liability arising from leaks of, spills of, and/or contamination by or from hazardous materials as defined by applicable laws or regulations, which may occur during and after the Agreement term, and are attributable to the actions of, or failure to act by, Licensee or any person claiming under Licensee.

14. Signs: Licensee must obtain written approval from Licensor prior to the construction or placement of any sign, signboard or other form of outdoor advertising.

15. Fencing: Licensee may install fencing on the Property with prior written approval from Licensor. Such fencing will include double drive gates, a minimum of sixteen (16) feet in width, designed to accommodate Licensor's locks, in locations specified by Licensor. Licensee will ground and maintain all fencing.

16. Parkways and Landscaping: Licensee will keep parkway and sidewalk areas adjacent to the Property free of weeds and trash. Licensee will maintain parkways and provide landscaping that is compatible with adjoining properties and that is satisfactory to Licensors.

17. Irrigation Equipment: Any irrigation equipment located on the Property prior to the commencement of this Agreement, including but not limited to pipelines, well pumping equipment and other structures, is the property of Licensors and will remain on and be surrendered with the Property upon termination of this Agreement. Licensee will maintain, operate, repair and replace, if necessary, all irrigation equipment at its own expense.

18. Underground Tanks: Licensee will not install underground or above-ground storage tanks, as defined by any and all applicable laws or regulations, without Licensors' prior written approval.

19. Underground Facilities: Any underground facilities installed or maintained by Licensee on the Property must have a minimum cover of three feet from the top of the facility and be capable of withstanding a gross load of forty (40) tons on a three-axle vehicle. Licensee will compact any earth to a compaction of ninety percent (90%). Licensee will relocate its facilities at its own expense so as not to interfere with Licensors' proposed facilities.

20. Utilities: Licensee will pay all charges and assessments for, or in connection with, water, electric current or other utilities which may be furnished to or used on the Property.

21. Taxes, Assessments and Liens: Licensee will pay all taxes and assessments which may be levied upon any crops, personal property, and improvements, including but not limited to, buildings, structures, and fixtures on the Property. Licensee will keep the Property free from all liens, including but not limited to, mechanics liens and encumbrances by reason of use or occupancy by Licensee, or any person claiming under Licensee. If Licensee fails to pay the above-mentioned taxes, assessments or liens when due, Licensors will have the right to pay the same and charge the amount to the Licensee. All accounts not paid within 30 days of the agreed upon due date will be charged a "late fee" on all amounts outstanding up to the maximum rate allowed by law.

22. Expense: Licensee will perform and pay all obligations of Licensee under this Agreement. All matters or things herein required on the part of Licensee will be performed and paid for at the sole cost and expense of Licensee, without obligation on the part of Licensors to make payment or incur cost or expense for any such matters or things.

23. Assignments: This Agreement is personal to Licensee, and Licensee will not assign, transfer or sell this Agreement or any privilege hereunder in whole or in part, and any attempt to do so will be void and confer no right on any third party.

24. Compliance with Law: Licensee will comply with all applicable federal, state, county and local laws, all covenants, conditions and restrictions of record and all applicable ordinances, zoning restrictions, rules, regulations, orders and any requirements of any duly constituted public authorities now or hereafter in any manner affecting the Property or the streets and ways adjacent thereto. Licensee will obtain all permits and other governmental approvals required in connection with Licensee's activities hereunder.

25. Governing Law: The existence, validity, construction, operation and effect of this Agreement and all of its terms and provisions will be determined in accordance with the laws of the State of California.

26. Indemnification - City of Huntington Beach - Park Use: City hereby agrees to protect, defend, indemnify and hold harmless SCE, its officers and employees, against any and all liability, claims, judgment costs and demands, including those resulting from death or injury to persons and

damage to SCE's property, arising directly or indirectly out of the use of the Property by the City and the public. This indemnification does not include any liability, claims, judgment, costs and demands which 1) arise out of the negligence or willful misconduct of SCE or 2) which does not arise out of the City's or the public's use of the property as a park.

27. Termination: This Agreement may be canceled and terminated by either Licensor or Licensee, at any time, upon thirty (30) days notice in writing. Licensee will peaceably quit, surrender and, prior to termination date, restore the Property to a condition satisfactory to the Licensor. Termination, cancellation or expiration does not release Licensee from any liability or obligation (indemnity or otherwise) which Licensee may have incurred. Licensee's continued presence after termination shall be deemed a trespass.

28. Events of Default: The occurrence of any of the following shall constitute a material default and breach of this Agreement by Licensee:

- (a) Any failure by Licensee to pay the consideration due in accordance with Article 3, or to make any other payment required to be made by Licensee hereunder when due.
- (b) The abandonment or vacating of the Property by Licensee.
- (c) Any attempted assignment or subletting of this Agreement by Licensee in violation of Article 23.
- (d) The violation by Licensee of any resolution, ordinance, statute, code, regulation or other rule of any governmental agency in connection with Licensee's activities pursuant to this Agreement.
- (e) A failure by Licensee to observe and perform any other provision of this Agreement to be observed or performed by Licensee, where such failure continues for the time period specified in a written notice thereof by Licensor to Licensee.
- (f) Any attempt to exclude Licensor from the licensed premises.
- (g) The making by Licensee of any general assignment for the benefit of creditors; the appointment of a receiver to take possession of substantially all of Licensee's assets located on the Property or of Licensee's privileges hereunder where possession is not restored to Licensee within five (5) days; the attachment, execution or other judicial seizure of substantially all of Licensee's assets located on the Property or of Licensee's privileges hereunder, where such seizure is not discharged within five (5) days.
- (h) Any case, proceeding or other action brought against Licensee seeking any of the relief mentioned in "clause g" of this Article which has not been stayed or dismissed within thirty (30) days after the commencement thereof.

29. Remedies: In the event of any default by Licensee, then in addition to any other remedies available to Licensor at law or in equity, Licensor shall have the immediate option to terminate this Agreement and all rights of Licensee hereunder by giving written notice of termination to Licensee. Upon termination, Licensor will have the right to remove Licensee's personal property from the Property, including but not limited to, buildings, structures and fixtures. In addition, Licensor may immediately recover from Licensee all amounts due and owing hereunder, plus interest at the maximum rate permitted by law on such amounts until paid, as well as any other amount necessary to compensate Licensor for all the detriment proximately caused by Licensee's failure to perform its obligations under this Agreement.

30. Non-Possessory Interest: Licensor retains full possession of the Property and Licensee will not acquire any interest temporary, permanent, irrevocable, possessory or otherwise by reason of this Agreement, or by the exercise of the permission given herein. Licensee will make no claim to any such interest. Any violation of this provision will immediately void and terminate this Agreement.

31. Waiver: No waiver by Licensor of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by Licensee of the same or any other provision. Licensor's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of Licensor's consent to or approval of any subsequent act by Licensee.

32. Authority: This Agreement is pursuant to the authority of and upon, and is subject to the conditions prescribed by General Order No. 69-C of the Public Utilities Commission of the State of California dated and effective July 10, 1985, which General Order No. 69-C, by this reference, is hereby incorporated herein and made a part hereof.

33. Attorneys' Fees: In the event of any action, suit or proceeding against the other, related to this Agreement, or any of the matters contained herein, the successful party in such action, suit or proceeding shall be entitled to recover from the other party reasonable attorney fees incurred.

34. Electric and Magnetic Fields ("EMF"): There are numerous sources of power frequency electric and magnetic field ("EMF"), including household or building wiring, electrical appliances and electric power transmission and distribution facilities. There have been numerous scientific studies about the potential health effects of EMF. Interest in a potential link between long-term exposures to EMF and certain diseases is based on the combination of this scientific research and public concerns.

While some 30 years of research have not established EMF as a health hazard, some health authorities have identified magnetic field exposures as a possible human carcinogen. Many of the questions about specific diseases have been successfully resolved due to an aggressive international research program. However, potentially important public health questions remain about whether there is a link between EMF exposures in homes or work and some diseases including childhood leukemia and a variety of other adult diseases (e.g. adult cancers and miscarriages). While scientific research is continuing on a wide range of questions relating to exposures at both work and in our communities, a quick resolution of the remaining scientific uncertainties is not expected.

Since Licensee plans to license or otherwise enter SCE's property that is in close proximity to SCE's electric facilities, SCE wants to share with Licensee and those who may enter the property under this agreement, the information available about EMF. Accordingly, SCE has attached to this document, a brochure that explains some basic facts about EMF and that describes SCE's policy on EMF. SCE also encourages you to obtain other information as needed to assist you in understanding the EMF respect to your planned use of this property.

35. Notices: All notices required to be given by either party will be made in writing and deposited in the United States mail, first class, postage prepaid, addressed as follows:

To Licensor: Southern California Edison Company  
Corporate Real Estate Department  
Real Estate Operations Division  
14799 Chestnut Street  
Westminster CA 92683

To Licensee: City of Huntington Beach  
PO. Box 190  
Huntington Beach, CA 92648

Business Telephone No. (714) 536-6551



Licensee will immediately notify Licensor of any address change.

36. Recording: Licensee will not record this Agreement.

37. Complete Agreement: Licensor and Licensee acknowledge that the foregoing provisions and any addenda and exhibits attached hereto constitute the entire Agreement between the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate as of the day and year herein first above written.

SOUTHERN CALIFORNIA EDISON COMPANY

By Alice Likely LICENSOR  
ALICE LIKELY  
Right of Way Agent  
Real Estate Operations  
Corporate Real Estate Department

CITY OF HUNTINGTON BEACH

By \_\_\_\_\_ LICENSEE

Print Name: \_\_\_\_\_

bs

APPROVED AS TO FORM  
JENNIFER McGRATH, City Attorney  
[Signature]  
By Leonie Mulvihill 12/20/04  
Deputy City Attorney

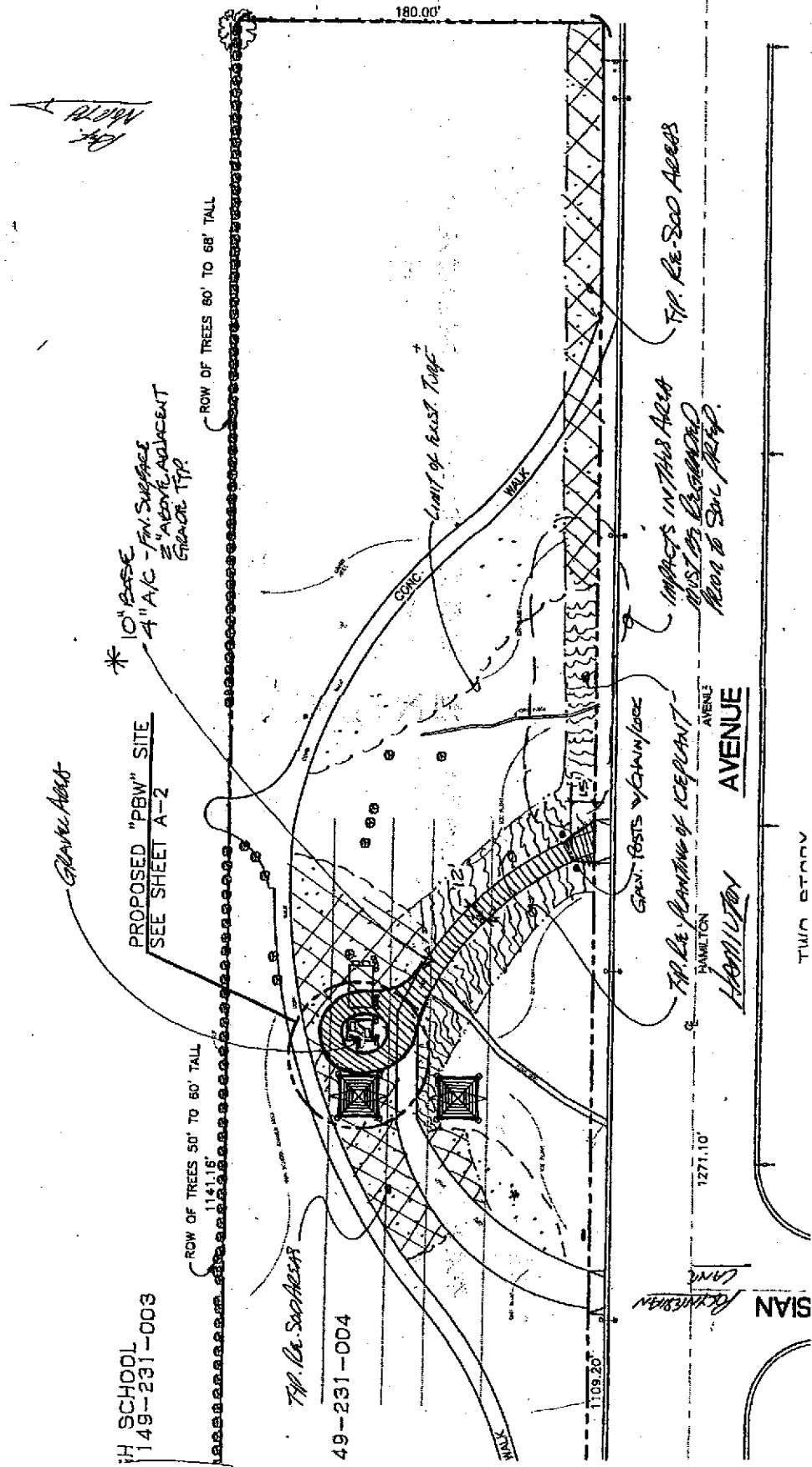
## ADDENDUM

### PARK USE

- A. Licensee must obtain the prior written approval from Licensor for the installation of any facilities, including any subsequent modifications. Licensee will maintain all facilities in a safe condition satisfactory to Licensor.
- B. At any time, Licensor may require the relocation of any portion of the facilities. Licensee will relocate same, at its expense, to a location satisfactory to Licensor within sixty (60) days after receiving notice to relocate from Licensor.
- C. At Licensee's expense, Licensee will post signs at all access points to the Property that read: "No Kite Flying, Model Airplanes or Metallic Balloons Permitted, High Voltage Wires Overhead."
- D. At Licensee's expense, Licensee will post signs at all access points of the Property that read: "No Motorcycles, Motorbikes, Horseback Riding or Hunting Permitted."
- E. Licensee must close the park at any time Licensor deems it necessary for the safety of the general public. If it is necessary to close the park for a period of more than three days, Licensee will notify the general public of the closure by posting at all access points to the property.
- F. At Licensee's expense, Licensee will install removable post-type barriers designed to accommodate Licensor's locks, to prevent unauthorized vehicular use or parking, including but not limited to, motorcycles, off-road vehicles, and "all-terrain" vehicles.
- G. Trespass discouragers shall be installed on Licensor's towers. The discourager installation will be performed by SCE. Licensee shall pay SCE in advance, for all SCE direct and indirect costs associated with the engineering, purchase, and installation of the discouragers. All towers shall be equipped with signs so worded as to warn the public of the danger of climbing the towers. Such signs shall be placed and arranged so that they may be read from the four corners of the structure. Such signs shall be neither less than 8 feet nor more than 20 feet above the ground except where the lowest horizontal member of the tower or structure is more than 20 feet above the ground in which case the sign shall be not more than 30 feet above the ground.
- H. Licensee must design and construct all walkways, underground sprinkler systems, lighting facilities, and drains to be capable of withstanding a gross load of forty (40) tons on a three-axle vehicle.

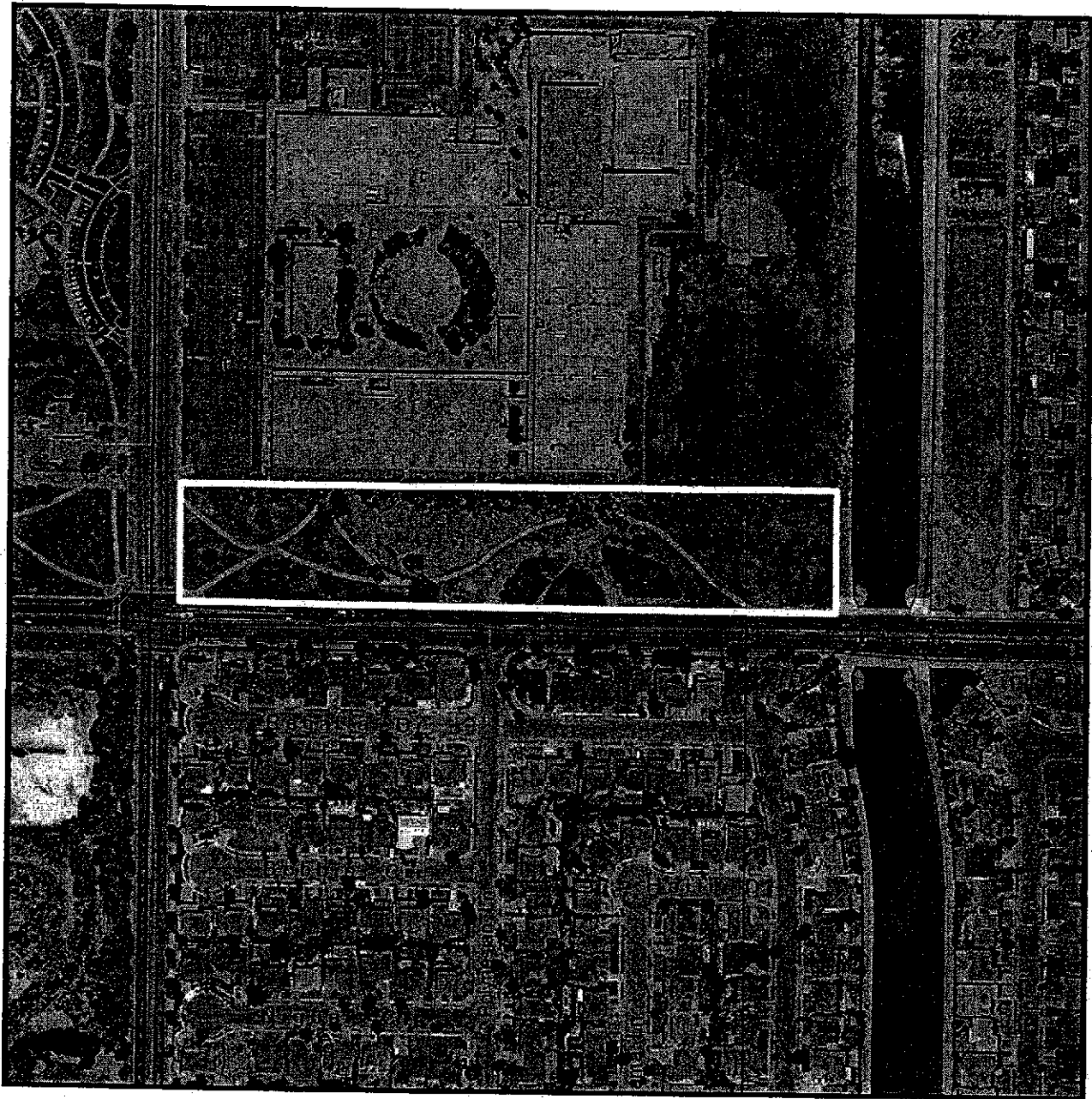
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Licensee's Initials

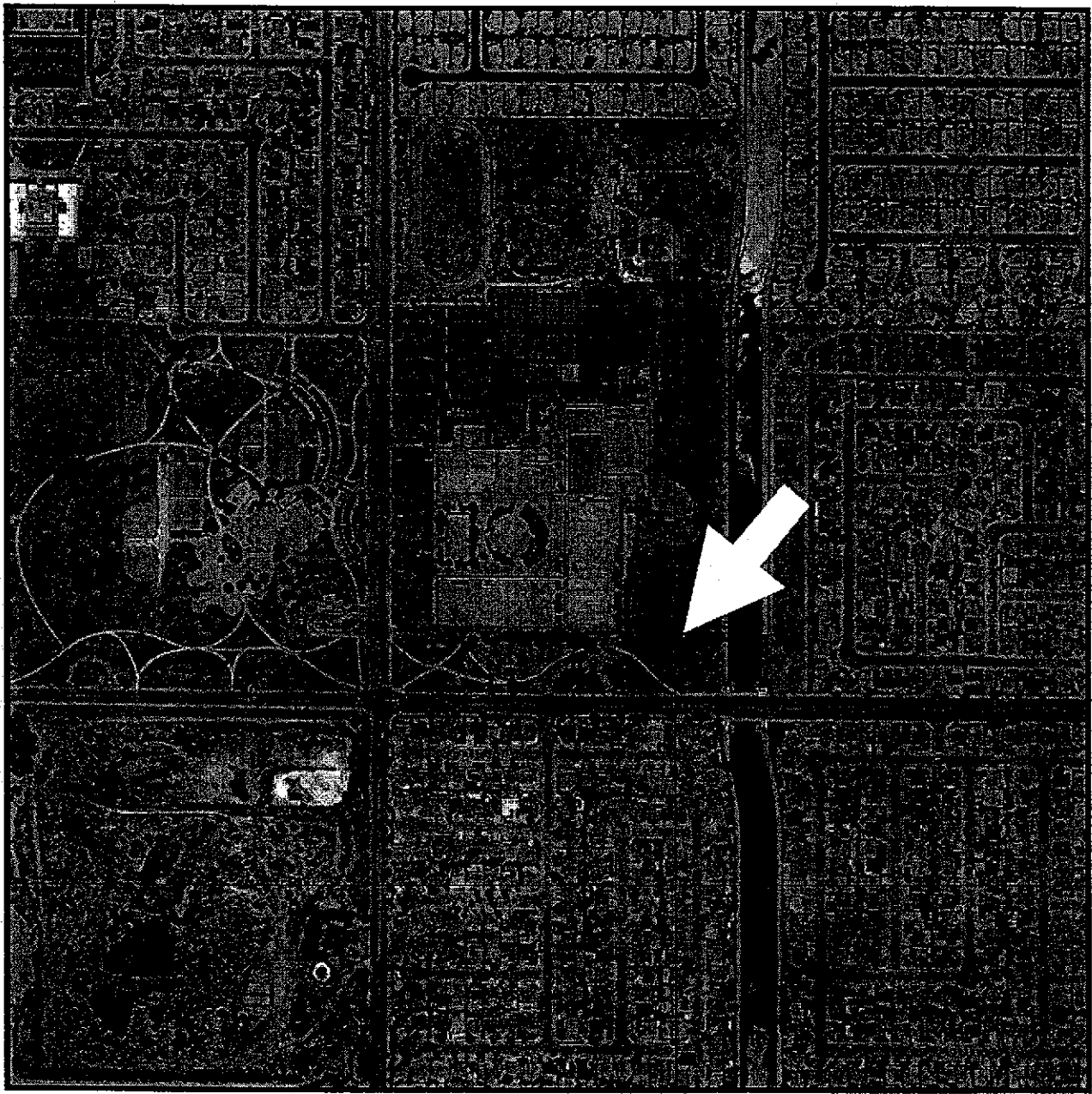


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Edison Park



E-16.34



E-16.35

City Attorney Memo Discussing Dog Restriction Issue

# ATTACHMENT #5

E-16.36



**CITY OF HUNTINGTON BEACH**  
**Inter-Department Communication**

RECEIVED

FEB 14 2005

**TO:** DAVID BIGGS, Director of Economic Development  
JIM ENGLE, Director of Community Services  
STEVE HOLTZ, Real Estate Manager  
MIKE HEINEKE, Real Property Agent

**FROM:** JENNIFER MCGRATH, City Attorney

**DATE:** February 7, 2005

**SUBJECT:** RLS 05-001 - SCE License Agreement Huntington Beach Ellis R/W Account No. 2145

Our office has been asked to approve as to form a license agreement between the Southern California Edison Company ("SCE") and the City of Huntington Beach that will permit the City to continue to use SCE's property for parks and/or public recreation purposes.

Please be advised that the license agreement provides that the City will not permit dogs on the property. (Paragraph 11-last sentence.) However, we have confirmed that City signage at the sites allows leashed dogs. Also, the Addendum to the agreement requires the City to post signs at all access points of the property reading:

"No Kite Flying, Model Airplanes or Metallic Balloons Permitted, High Voltage Wires Overhead."

and

"No Motorcycles, Motorbikes, Horseback Riding or Hunting Permitted."

We understand that the City has not posted these signs.

The purpose of this memorandum is to remind you of these obligations so that the appropriate action may be taken. In the interim, we have approved the agreement as to form.

If you have any questions, please call us.

JENNIFER MCGRATH,  
City Attorney

/k

Attachment: License Agreement for Huntington Beach-Ellis R/W



Municipal Code Section 13.48

# ATTACHMENT #6

E-16.38

**Chapter 13.48****PARKS**

(434-3/40, 511-5/47, 564-10/50, 1026-2/64, 1246-10/66, 1478-4/69, 1547-1/70, 2043-4/76, 2099-9/76, 2303-9/78, 2451-11/80, 2824-4/87, 2851-8/86, 2964-10/88, 3181-1/93, 3295-8/95, 3373-11/97)

**Sections:**

- 13.48.010 Definitions
- 13.48.015 Park Rangers
- 13.48.020 Unlawful acts
- 13.48.025 Signs
- 13.48.030 Vandalism
- 13.48.040 Public toilets
- 13.48.050 Littering
- 13.48.060 Vehicles operations--Parking
- 13.48.061 Vehicles--Speed
- 13.48.070 Animals
- 13.48.080 Boisterous conduct
- 13.48.090 Gambling
- 13.48.100 Vending and peddling
- 13.48.110 Alcoholic beverages
- 13.48.120 Games and activities
- 13.48.125 Safety regulations and signs
- 13.48.130 Curfew
- 13.48.140 Advertising
- 13.48.145 Camping
- 13.48.150 Violations--Penalty
- 13.48.155 Nuisance

**13.48.010 Definitions.** For the purposes of this chapter, the following terms shall have the meanings as set forth herein, unless the context in which they are used clearly indicates a contrary meaning:

- (a) "Alcoholic beverages" means any and all spirituous, vinous, malt or fermented liquor, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing one-half of 1 percent, or more, of alcohol by volume which are potable or fit as, or which may be used for beverage purposes.
- (b) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, corporation or any other group acting as a unit.
- (c) "Sound amplifying system" means and includes any system of electrical hookup or connection, loudspeaker system or equipment, sound amplifying system and any apparatus, equipment, device, instrument or machine designed for or intended to be used for the purpose of amplifying sound or increasing the volume of the human voice, musical tone, vibration, or sound wave. This definition shall not apply to the regular and customary use of portable radios, televisions, record players or tape recorders played or operated in such places at such times so as not to disturb other persons in their permitted uses of the park.
- (d) "City" means the City of Huntington Beach.
- (e) "Director" means the Director of the Community Services Department or other person(s) authorized by him, pursuant to law, to act in his stead.
- (f) "Department" means the Department of Community Services.

- (g) "Park" includes every park recreation center, lake, pond or other body of water, riding and hiking trail, parking lot and every other recreation facility owned, managed and/or controlled by the City and under the jurisdiction of the Director.
- (h) "Permission" means written permission, granted by the Director or his authorized agent. (1246-10/66, 2451-11/80)
- (i) "Skateboard Park" means any facility that is designed and maintained for the purpose of recreational skateboard use. (3181-1/92)
- (j) "Skateboard" means a board of any material which has wheels attached and such wheels may be used for moving or propulsion. (3181-1/92)

**13.48.015 Park Rangers.** For the purpose of this chapter, all Park Rangers are designated "limited power peace officers." Such Park Rangers shall have the authority to issue citations and/or make arrests for violations of this chapter, pursuant to section 836.5 of the California Penal Code. (2451-11/80, 2964-10/88)

**13.48.020 Unlawful acts.** It is unlawful for any person to do or commit, or for any person to cause or permit to be done or committed within the boundaries of any public park within the City of Huntington Beach, any act in the following sections. (1026-2/64, 1246-10/66)

**13.48.025 Signs.** No person shall fail or refuse to obey or comply with any notice or sign, including warning, regulatory and road markings, placed by order of the Director for the safety or control of persons, vehicles or animals. No person shall willfully refuse to follow or comply with any lawful order or direction given by a department employee. (2451-11/80)

**13.48.030 Vandalism.** No person shall willfully cut, break, injure, deface, disfigure, mark or write upon, paint, carve, burn, tamper with, attach rope or wire to, displace or remove any tree, shrub, plant, turf, rock, sand, soil, wood, building, fence, table, bench, barbecue unit, pole, light, playground apparatus, bridge, railing, paving material, fountain, trash receptacle, waterline or other public utility, part or appurtenance thereof, sign, notice or placard, whether temporary or permanent, monument, stake, post or other boundary marker, equipment, tools, implements, materials, any structure or park facility whatsoever, either real or personal. (1026-2/64, 1246-10/66, 2451-11/80)

**13.48.040 Public toilets.** No person shall fail to cooperate in maintaining public toilets in a neat and sanitary condition nor shall any person loiter in or about any public toilet or enter any public toilet designated for the opposite sex except that this provision shall not apply to persons under five years of age that are accompanied by a parent or guardian. (1026-2/64, 1246-10/66, 2303-9/78)

**13.48.050 Littering.** No person shall deposit, throw, discharge or otherwise place any paper, ashes, dirt, bottles, broken glass, cans, trash, litter, animal carcass, rubbish, debris or any substance, matter or thing, either liquid or solid in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park or in or on the grounds of said park except in the proper receptacles where these are provided; nor shall any person within any park wash eating or cooking utensils elsewhere than in the sinks provided for such purposes; nor shall any person bring any such substance, except litter accumulated in the course of automobile travel, into a City park for the purpose of disposal thereof in City park facilities. Where receptacles are not provided, all such rubbish or waste shall be carried from the park by the person responsible for its presence and properly disposed of elsewhere. (434-3/40, 511-5/47, 1026-2/64, 1246-10/66, 2451-11/80)

**13.48.060 Vehicle operations--Parking.**

- (a) Parking. No person shall operate, drive, ride, park or leave standing any automobile, truck, motorcycle, motor scooter, motorized bicycle, gocart or any other motor vehicle or any other

vehicle at any time in any park; provided, however, that the provisions of this section shall not apply to those specific areas within any public park of the City which shall have been regularly and lawfully set aside for the use of vehicles; and provided further that the provisions of this section shall not apply to any vehicle used or owned by the City or any vehicle to which a temporary parking pass has been issued by the City or any commercial vehicle making lawful deliveries to or otherwise lawfully engaged in any undertaking or enterprise within any public park of the City. No person shall park and leave unattended any vehicle in areas other than those designated for parking. Vehicles left unattended in any area, except those designated for parking, without permission, may be towed away and stored by the City and said removal and storage costs shall be charged to and paid by the owner prior to release. Nor shall any person ride or drive a bicycle, skateboard or roller skates upon any tennis, handball, basketball, shuffleboard or multipurpose court in a City park. (1246-10/66, 2451-11/80, 3373-11/97)

- (b) Upon proof of valid California vehicle registration, proof of insurance as required by the California Vehicle Code and proof of a valid driver's license, the operator of a vehicle may be issued a temporary parking pass by the Director of Community Services or his designated representative. The pass will entitle the holder to park or operate a vehicle during short term use of park facilities. The pass must be displayed at all times on the front dashboard of the vehicle or in a manner so that it is clearly visible through the windshield. (3373-11/97)

**13.48.061 Vehicles--Speed.** No person shall operate any wheeled conveyance of any type in any park at a speed in excess of 10 miles per hour unless a greater speed is posted. The maximum speed limit when pedestrians are present shall be five (5) miles per hour. (2851-8/86)

- \* **13.48.070 Animals.** No person shall ride, lead or let loose any cattle, horse, mule, goat, sheep, swine, cat, dog, fowl or animal of any kind in a park except that it shall not be unlawful to have dogs, physically restrained by a leash not in excess of six (6) feet, or to ride horses on trails specifically provided for them. No person shall permit a dog to be or remain unattended outside a tent, camper or other enclosed vehicle between the hours of sunset and sunrise. No person shall keep or permit to remain any dog which is noisy, vicious or dangerous or which disturbs other persons within the boundaries of a park after such person has been directed by a park ranger to remove such dog. No person shall trap, kill, injure, catch or maltreat any wild or domesticated bird or animal; or destroy, remove or disturb any of the young or eggs of same, or permit any dog to pursue, trap, kill or wound any wild or domesticated bird or animal, except that the provisions of this section shall not apply to City employees regulating animal populations that have been declared a nuisance or hazard by the Director consistent with laws protecting such animals. (434-3/40, 564-10/50, 1026-2/64, 1246-10/66, 2451-11/80)

**13.48.080 Boisterous conduct.** No person shall maliciously or willfully disturb the peace or quiet of a park or of any person therein, by loud or unusual noises, or by indulging in riotous, boisterous, threatening, indecent or offensive conduct, or by using abusive, profane, indecent or vulgar language. No person shall, within any park, disturb in any manner any picnic, meeting, services, concert, exercise or exhibition. No person shall play or utilize any sound-amplifying system within or upon any park or facility not set aside for such purpose by the City Council or the Director. (434-3/40, 511-5/47, 1026-2/64, 2451-11/80)

**13.48.090 Gambling.** No person shall gamble or engage in gambling. (1246-10/66)

**13.48.100 Vending and peddling.** No person shall expose or offer for sale any article or thing nor shall he station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing except by written permission from the Director. No person shall give, set up or maintain any exhibition, show, performance, concert, lecture, entertainment or similar activity without written permission to do so from the Director. No person shall for profit offer sports camps, sports lessons or other similar activity on park property without the written permission of the Director. (434-3/40, 511-3/47, 1026-2/64, 1246-10/66, 2451-11/80, 2824-4/87)

**13.48.110 Alcoholic beverages.** No person shall consume or have in his possession, custody or control, either open or unopened, any alcoholic beverage of any kind whatsoever, except when attending a function operating under an alcohol permit issued in accordance with Chapter 9.84 of this code. No intoxicated person shall enter, be or remain in any park. (1026-2/64, 2043-4/76, 2451-11/80)

**13.48.120 Games and activities.** It is unlawful for any person to take part in or abet the playing of any activity which endangers the health, safety or welfare of the participant or any person whomsoever in any park, except on fields and courts or areas specifically provided for such games or activities or areas designated for such games and activities by the City Council or Director. Such games and activities shall include, but shall not be limited to, the following:

- (a) Baseball, tackle football, field hockey, rugby, cricket, golf, boxing, wrestling and the martial arts.
- (b) Wading, bathing, swimming, launching any type of boat, raft, air mattress, surfboard or to be in or on any lake, stream or pond found in a City park.
- (c) Flying any model airplane or helicopter, and launching any model fuel power boat, provided that this subsection shall not prohibit the launching of model boats powered by battery or sail.
- (d) Carrying, transporting, possessing, discharging, firing or shooting over, onto or through any park any firearm, air gun, bb gun, spring gun, slingshot, bow and arrow, crossbow, spear, fireworks, firecracker, rocket, explosive of any kind or any other form of weapon potentially dangerous to human beings or wildlife. This subsection shall not apply to law enforcement officers.
- (e) Fishing in any park lake other than those designated by the Director, during hours which are authorized for such activity.
- (f) Lighting or maintaining any fire except in a stove, barbecue grill, fire circle, portable stove or barbecue grill approved by the Director.
- (g) Erecting any barrier, whether string, wire, rope or chain, or placing any obstruction of any kind across any path, trail or other area accessible to the public.
- (h) Engaging in any other activity which endangers the health and safety of the public.  
(1246-10/66, 1478-4/69, 1547-1/70, 2451-11/80)

**13.48.125 Safety regulations and signs.** (3181-1/93)

- (a) No person shall ride a skateboard at any skateboard park owned or operated by the City whether supervised or not unless that person is wearing a helmet, elbow pads, and knee pads.  
(3181-1/93)
- (b) The Director of Community Services shall erect and maintain visible regulatory signs at all skateboard parks owned and operated by the City that are not supervised on a regular basis. Such signs shall afford notice that any person riding a skateboard in the facility must wear a helmet, elbow pads, and knee pads, and that any person failing to do so will be subject to citation under Section 8.46.020 of this chapter. (3181-1/93)

**13.48.130 Curfew.** No person shall remain, stay or loiter on or about any such park between the hours of 10 p.m. and 5 a.m. of the following day provided that this section shall not apply to attendance at authorized community activities in the park. Any park, recreation center or part or portion thereof may be closed to the public during an emergency, or when it has been determined by the Director, a park ranger or police officer that the public health, safety or morals require such

action. Such park, recreation center or part or portion thereof shall not be reopened except by order of the City Council, City Administrator, Director, a park ranger or police officer. (1246-10/66, 2451-11/80)

**13.48.140 Advertising.** No person shall announce, advertise or call the public attention in any way to any article or service for sale or hire, or paste, glue, tack or otherwise post any sign, picture, placard, advertisement or inscription whatever, or distribute any handbill, circular or petition except by permission from the Director, provided that this section shall not apply to any concession operating under lease granted by the City Council. (1246-10/66, 2451-11/80)

**13.48.145 Camping.** The following City parks are hereby designated as camping facilities: Lake Park, Farquhar Park, Huntington Central Park, and Norma Brandel Gibbs Park. No person shall use any camping facility for overnight camping purposes without applying for and obtaining written permission from the Director upon payment of the required fees established, and amended from time to time, by resolution of the City Council of the City of Huntington Beach.

The Director may designate areas within subject parks for camping and may promulgate reasonable rules and regulations pertinent to the use of subject parks for camping purposes.

No person shall use or occupy a camping facility unless the fee, evidenced by a receipt, has first been paid. (2099-9/76, 2451-11/80)

**13.48.150 Violations--Penalty.** Any person violating any provision of this chapter shall, upon conviction thereof, be guilty of a MISDEMEANOR, and subject to a fine of not more than five hundred dollars (\$500) or be imprisoned in the City or county jail for a period not to exceed three (3) months, or both such fine and imprisonment. (1026-2/64, 1246-10/66)

**13.48.155 Nuisance.** It shall be deemed a public nuisance for any person to do or commit, or cause to permit to be done or committed on or within the boundaries of any public park within the City of Huntington Beach, any act as described in sections 13.48.010 through 13.48.150 hereof. (3295-8/95)